**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF NEW JERSEY**

CLOSED

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| PFIZER INC., PHARMACIA & UPJOHN COMPANY, and PFIZER HEALTH AB,<br><br>Plaintiffs and Counterclaim-Defendants,<br><br>v.<br><br>TEVA PHARMACEUTICALS USA, INC.,<br><br>Defendant and Counterclaim-Plaintiff. | No. 08-CV-1331 (DMC) (MF) |

**FINDINGS OF FACT AND CONSENT JUDGMENT AND ORDER**

Upon the consent and request of the parties, the Court hereby makes the following Findings of Fact and issues the following Consent Judgment and Order:

**FINDINGS OF FACT**

1. Plaintiffs Pfizer Inc., Pharmacia & Upjohn Company, and Pfizer Health AB (collectively, "Pfizer") timely brought suit against Teva Pharmaceuticals USA, Inc. ("Teva") on December 12, 2007 in the United States District Court for the Southern District of New York, Civil Action No. 07-11198 (the "New York Action"), charging Teva with, *inter alia*, infringement of U.S. Patent Nos. 5,382,600 (the "'600 patent"), 6,630,162 (the "'162 patent"), and 6,770,295 (the "'295 patent").

2. On March 6, 2008, the United States District Court for the Southern District of New York entered an order transferring the New York Action to this District, where it was assigned Civil Action No. 08-1331.

3. Teva has infringed claims 4 and 6 of the '600 patent, claims 1-8, 10-18, and 20-23 of the '162 patent, and claims 5, 13, 16, and 17 of the '295 patent under 35 U.S.C. § 271(e)(2) by their submission to the United States Food and Drug Administration ("FDA") of Abbreviated New Drug Application No. 79-141 (the "Teva ANDA"), pursuant to 21 U.S.C. § 355(j), containing certifications under 21 U.S.C. § 355(j)(2)(A)(vii)(IV) ("Paragraph IV Certification") with respect to the '600, '162, and '295 patents.

4. The unauthorized commercial use, manufacture, importation, offer for sale, or sale of the *tolterodine tartrate* capsule products described in the Teva ANDA would also infringe claims 4 and 6 of the '600 patent, claims 1-8, 10-18, and 20-23 of the '162 patent, and claims 5, 13, 16, and 17 of the '295 patent under 35 U.S.C. §§ 271(a), (b), and (c).

5. Pfizer is entitled to a permanent injunction enjoining Teva from manufacturing, having manufactured, using, offering to sell, selling, or shipping within the United States, or importing into the United States, any *tolterodine tartrate* products, including those defined by the Teva ANDA, during the life of the '600, '162, and '295 patents and extensions, including any associated regulatory exclusivity such as pediatric exclusivity under 21 U.S.C. § 355a, except as expressly permitted under the Settlement and License Agreement (dated May 17, 2011) by and between Teva and Pfizer.

## CONSENT JUDGMENT AND ORDER

Pursuant to the above Findings of Fact, and upon the consent and request of the parties,

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

1. This Court has jurisdiction over the parties and the subject matter of this action.

2. The *tolterodine tartrate* products defined by the Teva ANDA infringe claims 4 and 6 of the '600 patent.

3. The *tolterodine tartrate* products defined by the Teva ANDA infringe claims 1-8, 10-18, and 20-23 of the '162 patent.

4. The *tolterodine tartrate* products defined by the Teva ANDA infringe claims 5, 13, 16, and 17 of the '295 patent.

5. Teva, its officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with it who receive actual notice of this Order by personal service or otherwise, are hereby enjoined from manufacturing, having manufactured, using, offering to sell, selling within the United States, or importing into the United States, the *tolterodine tartrate* products defined by the Teva ANDA, or any other *tolterodine tartrate* product, except as expressly permitted under the Settlement and License Agreement (dated May 17, 2011) by and between Teva and Pfizer.

6. This Findings of Fact and Consent Judgment and Order constitutes a final disposition of all disputes between Pfizer and Teva in the above-captioned action. Except as otherwise agreed to by the parties, each of the parties shall bear its own costs and attorney fees.

7. Pfizer and Teva have waived any right to appeal from this Findings of Fact and Consent Judgment and Order.

8. Teva's defenses and counterclaims set forth in its pleadings, including those with respect to the validity and enforceability of the '600, '162, and '295 patents, are hereby dismissed with prejudice, subject to Paragraph 9 of this Consent Judgment and Order below.

9. Pfizer and Teva agree that the dismissal of this action with prejudice shall not be construed as an admission or waiver as to any factual or legal matter by Pfizer or Teva with respect to any products other than the products at issue in the action. Specifically, the dismissal of this action with prejudice shall not preclude Teva from asserting any claim or counterclaim

challenging the validity, enforceability or infringement of the '162 and '295 patents to the extent those patents are listed as covering products other than Detrol®, Pfizer's tolterodine tartrate product, or Detrol® LA, Pfizer's extended release tolterodine tartrate product, in the FDA publication "Approved Drug Products with Therapeutic Equivalence Evaluations," commonly referred to as "The Orange Book."

10. This Court retains jurisdiction over the parties to this action for purposes of enforcing this Consent Judgment and Order.

11. The Clerk of the Court is directed to enter this final judgment forthwith.

Dated: July 6, 2011

**GIBBONS P.C.**

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**IT IS HEREBY SO ORDERED.**

Dated: July 26, 2011

THE HONORABLE DENNIS M. CAVANAUGH
United States District Judge
District Of New Jersey